IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

CONTEMPT PETITION NO.268 OF 2004
IN
A.O.STAMP NO.12324 OF 2004
IN
NOTICE OF MOTION NO.1331 OF 2004
IN
S.C.SUIT NO. 1576 OF 2004

Sunanda Madusudan Bhoir]
of Bombay, Indian Inhabitant]
residing at 10, Mangalam Co.Op.]
Housing Society Ltd. 250,]
Jain Mandir Road, Daulat Nagar]
Borivali (E), Bombay-400066]..Appellant
(Ori.Plaintiff)

Vs.

Pradip Madusudan Bhoir]
Aged 80 years,]
of Bombay Indian Inhabitant]
residing at 10, Mangalam Co.Op.]
Housing Society Ltd. 250,]
Jain Mandir Road,]
Daulat Nagar, Borivali (E)]
Bombay-400066]..Respondent
(Ori.Defendant)

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Mrs.Vasanti S.Dighe for Petitioner
Mr.Induprakash i/b M/s. L.K.Tripathi
& Co. for Respondent

....

CORAM : B.H.MARLAPALLE,J.

DATE OF RESERVING
THE JUDGMENT : APRIL 6, 2005
DATE OF PRONOUCING
THE JUDGMENT : APRIL 11, 2005

JUDGMENT:

1. The Petitioner is the mother of the Respondent Contemnor in Short Cause Suit No.1576 of 2004. The

learned Judge of the City Civil Court at Bombay, had ordered as under:

> . "The defendant and his family members, servants and agents are restrained by an order of injunction from entering into the suit premises viz. flat no.10, Mangalam Co.Op. Housing Society, 250, Jain Mandir Road, Daulat Nagar, Borivali (E), Bombay-400066 and causing inconvenience to the Plaintiff".

. The present Petitioner was the plaintiff and the Respondent was the Defendant in the said suit. This order came to be challenged before this Court in A.O. (Stamp No.12324 of 2004) which was disposed of on 22.4.2004 by the following directions so as to protect the rights of all the concerned:

> i) The Appellant shall be permitted to use along with his wife only the room other than kitchen and bathroom alongwith the Respondent. The Respondent shall be entitled to exclusive use of the kitchen.
>
> ii) The Appellant shall not be permitted to allow any other person or persons whether members of the family or not or their servants to enter the suit premises at any time. The Appellant shall not be entitled to permit visitors to the suit flat at all.
>
> iii) The concerned Police Station is requested to respond to any complaints from the Respondent promptly in accordance with law.
>
> iv) The Appellant shall pay to the

Respondent a sum of Rs.3000/- per month on or before 5th of each month. The first amount shall be paid on or before 5th May, 2004.

v) The said amounts shall be paid by cheque drawn in favour of the Respondent but forwarded to the Respondent's advocate.

vi) In the event of a single default, the impugned order stands and the Appellant shall vacate the premises forthwith.

2. The Petitioner mother has alleged that inspite of the directions issued by this Court, the Contemnor at the first instance started using the kitchen in the subject flat and in addition allowed his son, daughter-in-law and grand child into the flat inspite of her possession. All of them continued to occupy the flat and in flagrant violation of the order passed by this Court. In support of these contentions, the Petitioner has placed on record few photographs along with their negatives and the affidavit of the photographer who clicked the same photographs. They support the contention of the Petitioner that the house was shared at the least on the date the pictures were taken by other members of the family and contrary to the orders passed by this Court.

3. The Contemnor has tendered unconditional apology and has assured that he shall not at any time in

future, allow any other member than himself, his wife to visit or stay in the subject flat. In addition to the apology tendered by way of his affidavit in reply, he has placed on record the written undertaking for future. The Contemnor was personally present in the Court on the dates fixed for hearing of this petition and there is no reason to disbelieve the intentions and commitments of the Petitioner. The apology submitted by him appears to be genuine and bonafide. The apology is therefore, accepted and the Contemnor is purged from the contempt proceedings provided he ejects his son, daughter in law and the grand children/grand child from the suit flat on or before 14th April, 2005 and that he shall not in any way act in violation of the order passed by this Court on 22-4-2004. In addition, he shall not allow any visitors including the guests, friends or any other family members to the suit flat.

4. Contempt Petition disposed of in terms of the above order and the bailable warrant issued against the Contemnor vide order dated 22.3.2005 is hereby recalled.

[B.H.MARLAPALLE,J.]